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### **Merced County Pesticide Regulatory Program 2006/2007 Performance Evaluation Report**

**California Environmental Protection Agency  
Department of Pesticide Regulation  
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Sacramento, California 95814**

## **Performance Evaluation of Merced County Agricultural Commissioner Pesticide Use Enforcement Program**

This report provides a performance evaluation of Merced County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for fiscal year (FY) 2006/2007. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

### **I. Summary Report of Core Program Elements**

#### **A) Restricted Materials Permitting:**

The restricted materials permitting program element was found to meet DPR standards and work plan goals.

#### **B) Compliance Monitoring:**

The compliance monitoring program element was found to meet DPR standards and work plan goals.

#### **C) Enforcement Response:**

The enforcement response program element was found to meet DPR standards and work plan goals.

#### **Summary Statement:**

Merced CAC's pesticide use program is currently effective

### **II. Assessment of Core Program Effectiveness and Work Plan Goals**

#### **A) Restricted Materials Permitting:**

##### **1) Permit Issuance**

The Merced CAC permit issuance procedures and performance were evaluated through observation and interviews of relevant staff and found to conform to DPR standards and expectations. The thirteen biologists that issue permits all possess Pesticide Regulation and Investigation and Environmental Monitoring licenses. The DPR evaluation determined that permits are:

- Issued only to qualified applicants;
- Signed by authorized persons;
- Issued for time periods allowed by law; and that
- Permit amendments follow approved procedures.

##### **2) Site Evaluation**

The Merced CAC site evaluation procedures were evaluated through observation, record review, and interviews of relevant staff and found to conform to DPR standards and expectations. The CAC issued 1,745 agricultural permits and 6 nonagricultural permits during the subject year. The permits:

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. The program reviews all Notices of Intent (NOIs) in a timely manner and adequately monitored agricultural and nonagricultural permits utilizing pre-application site evaluations and use monitoring inspections.

## **B) Compliance Monitoring:**

### **1) Inspections**

Merced CAC conducted 1,028 agricultural use monitoring inspections, focusing on property operators and field fumigations. Merced CAC conducted 86 record inspections focusing on property operators with employees. They conducted 78 structural use inspections.

Merced CAC inspection procedures and performance were evaluated through DPR oversight inspections and record review and found to conform to DPR standards and expectations. Thirteen biologists that possess Pesticide Regulation and Investigation and Environmental Monitoring licenses perform inspections. Inspections are performed according to the inspection strategy documented in the CAC's enforcement work plan. Inspections are performed according to DPR policies and procedures and inspection reports are complete and comprehensive. The inspections adequately provide the information necessary to successfully prosecute violations.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements;
- Include interviews of employers and employees as appropriate;
- Adequately document violations; and
- Include appropriate follow-up inspections and procedures.

### **2) Investigations**

Merced CAC conducted 29 routine investigations and one priority investigation. Merced CAC investigation procedures and performance were evaluated through observation, record review, and interviews of relevant staff and found to conform to DPR standards and expectations. The CAC investigates all complaints and complete their reports in a timely manner. The CAC refers and/or notifies DPR and other agencies, as required.

Investigations are thorough and complete and submitted on approved forms and in the approved format. The investigations document violations; the CAC collects evidence according to DPR standards. The investigations adequately provide the information necessary to successfully prosecute violations.

**C) Enforcement Response:**

Merced CAC issued three agricultural civil penalties. The Merced CAC enforcement response was evaluated through observation, record review, and interviews of relevant staff and found to conform to DPR standards and expectations. The CAC' enforcement program was found to:

- Initiate the appropriate action when violations are identified;
- Sufficiently support compliance, enforcement and public protection actions;
- Ensure that due process requirements are met when taking an enforcement or permit action or when initiating a private applicator certification or registration refusal/revocation.

The CAC levies fines in the appropriate category, adheres to statutory time frames and follows DPR policies when imposing civil penalties on employees. In the last Work Plan, Merced County planned to shorten the length of time between finding a violation and issuing a civil penalty. This improvement was started but not completed during last fiscal year. A system for tracking non-compliances, follow-up inspections and decisions was improved by the current PUE deputy. The new work plan states that their goal for 07/08 is to complete the streamlining of their Enforcement Response Regulation process. This is necessary to ensure that enforcement actions are initiated prior to the two-year statute of limitations.

**III. Recommended Corrective Actions**

No corrective actions are currently needed.

**IV. Non-Core and Desirable Activities**

**Outreach and Training**

The Merced CAC's office performs bilingual (English/Spanish) training to industry employees on pesticide laws and regulations and worker safety. The CAC also provides outreach materials on compliance with pesticide laws and regulations and worker safety to restricted material permittees.